

Regulatory Language

Section 150, Title 14, CCR is amended to read:

Section 150 Nearshore Fishery Restricted Access Program.

(a) Nearshore Fishery Permits issued pursuant to Fish and Game Code Section 8587, are valid only in the regional management area specified in the permit.

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04, Title 14, CCR to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

(c) Nearshore Fish Stocks Used for Landings Qualification. The following names or market categories and their associated codes as recorded on department fish landing receipts pursuant to Fish and Game Code Section 8043 will be used to determine eligibility: black-and-yellow rockfish (251), cabezon (261), California scorpionfish (260), California sheephead (145), China rockfish (258), gopher rockfish (263), grass rockfish (652), greenlings of the genus *Hexagrammos* (290), kelp rockfish (659), group nearshore rockfish (973) and group gopher rockfish (962).

(d) Initial Permit Issuance.

(1) North Coast Region. The person has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and satisfies the landings and participation requirements below:

(A) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and December 31, 1999, and

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

~~(B)~~ (C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

~~(C)~~ (D) Nearshore Fishery Permits issued pursuant to subsection (d)(1) are designated North Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) North-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code

Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(2) are designated North-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) South-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-03 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South-Central Coast Region.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(3) are designated South-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) South Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(4) are designated South Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the

holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(5) A non-transferable Nearshore Fishery Permit shall become null and void upon the death of the permit holder.

(f) Capacity Goal. The capacity goal for each nearshore regional management area is as follows: 14 North Coast Region Nearshore Fishery Permits, 9 North-Central Coast Region Nearshore Fishery Permits, 20 South-Central Coast Region Nearshore Fishery Permits, and 18 South Coast Region Nearshore Fishery Permits. The capacity goal for Non-Transferable Nearshore Fishery Permits is zero.

(g) Permit Transfers.

(1) If the combined total number of transferable and non-transferable Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on or after April 1, 2003, the following provisions for permit transfers are in effect:

(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.

(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the permittees described in subdivision (A), that each include a statement identifying the person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.

(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.

(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season.

At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non-Transferable Nearshore Fishery Permit, that permit shall be cancelled.

(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.

(2) Should the combined total number of transferable and non-transferable Nearshore Fishery Permits in a regional management area fall below the capacity goal, the commission may prescribe criteria for the transfer of permits or the issuance of additional permits pursuant to the Administrative Procedure Act following public notice and not less than on public hearing.~~the following provisions would be in effect:~~

~~(A) Transferable Nearshore Fishery Permits for a nearshore regional management area will be made available to those persons with a valid Non-transferable Nearshore Fishery Permit for that regional management area as described in Section 52.04, Title 14, CCR, who landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, in that regional management area during the prior calendar year, and who landed the highest total pounds of nearshore fish stocks at ports within that regional management area during the six year period January 1, 1994 through December 31, 1999 as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046. Permits will be issued in order to those persons who landed the highest total number of pounds of nearshore fish.~~

~~(B) When only Transferable Nearshore Fishery Permits remain in a regional management area, transfer of Nearshore Fishery Permits in that region will be on a one-to-one basis.~~

(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.

(A) Such transfer may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.

(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.

(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:

(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.

(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.

(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.

(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.

(h) Application Deadline for Initial Issuance of Nearshore Fishery Permit. All applications (FG 1326(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(i) Nearshore Fishery Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Permits for a regional management area will be issued annually by the department only to those persons who have held a valid Nearshore Fishery Permit for that regional management area in the immediately preceding permit year.

(j) Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326(4/10/03), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit applied for shall be cancelled and not available for renewal in subsequent years.

(k) Presence of Permit Holder on Vessel. At least one Nearshore Fishery Permit holder shall be on board at all times when taking, possessing aboard a boat, or landing nearshore fish stocks as described in Section 150.01, Title 14, CCR. If a support vessel is used, a permit holder shall be on each vessel when taking nearshore fish stocks.

(l) Gear Authorized for Use. Only hook-and-line gear consistent with restrictions of Section 150.17, Title 14, CCR, and gear authorized for use under a gear endorsement issued pursuant to Section 150.03, Title 14, CCR, shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR.

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit of five hundred dollars (\$500).

(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit of five hundred dollars (\$500).

(3) The department shall charge a non-refundable fee of five hundred dollars (\$500) for each permit transfer. If more than one permit is required for the transfer, a total of five hundred (\$500) shall be charged.

(o) Revocation of Permits. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Section 150.02, Title 14, CCR, is amended to read:

Section 150.02 Control Dates for Other Nearshore Species; Permits to Commercially Take Deeper Nearshore Fish Species.

(a) Permit Required. Effective April 1, 2003, any person taking, possessing aboard a boat, or landing any species of deeper nearshore fish listed in subsection (b) below for commercial purposes shall possess a valid deeper nearshore species fishery permit issued to that person that has not been suspended or revoked, except that when using a boat to take deeper nearshore species at least one person aboard the boat shall have a valid deeper nearshore species fishery permit.

(b) Permit Authorization. Notwithstanding Section 8587 of the Fish and Game Code, a deeper nearshore species fishery permit is required only for the commercial take of the

following species of nearshore fish stocks: black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, olive rockfish, quillback rockfish and treefish.

(c) Permit Revocation. Deeper nearshore species fishery permits are revocable.

(d) Fees. The fee for a deeper nearshore species fishery permit is \$125.

(e) Initial Issuance Criteria. Notwithstanding Section 8587 of the Fish and Game Code, a deeper nearshore species fishery permit shall be issued only to persons who have made landings that cumulatively total 200 pounds of any of the eight species for which a deeper nearshore species fishery permit is required pursuant to subsection (b).

Landings must have been made in an individual's name and commercial fishing license identification number and submitted on fish landing receipts to the department pursuant to Section 8043, Fish and Game Code, and must have been made from January 1, 1994 through December 31, 1999. Applications (FG 1329(2/03), incorporated herein by reference) for initial issuance must be received by the department, or, if mailed, postmarked on or before September 30, 2003. Applications received by the department or postmarked from October 1, 2003 through October 31, 2003 must be accompanied by a \$50 late fee. Applications received by the department or postmarked after October 31, 2003 will be returned to the applicant unissued.

(f) Appeal. Any applicant who is denied issuance of a deeper nearshore species fishery permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received by the department, or, if mailed, postmarked on or before March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(g) Renewal.

(1) Applicants seeking renewal of a deeper nearshore species fishery permit must have held a deeper nearshore species fishery permit in the immediately preceding permit year.

(2) Applications (FG 1329 (104/03), incorporated herein by reference) and permit fees for renewal of a deeper nearshore species fishery permit must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications received by the department or postmarked from May 1 through May 31, must be accompanied by a \$50 late fee. Applications received by the department or postmarked after May 31 shall be returned to the applicant unissued.

(3) Applications for renewal must be accompanied by evidence that the qualification requirements specified in subsection (g)(1) have been met.

(h) A control date of December 31, 1999 is established for the purpose of developing a restricted access commercial nearshore fishery for those persons taking nearshore fish stocks not covered under other nearshore control dates or nearshore restricted access programs established in Section 150, Title 14, CCR. Species subject to this control date include only black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish. Landings of these species made after this date may not apply toward qualifying for participation in a future restricted access program for this component of the nearshore fishery.

(i) This section does not apply to those nearshore species for which a Nearshore Fishery Permit is required pursuant to Section 150.01.

NOTE

Authority cited: Sections 7071 and 8587.1, Fish and Game Code. Reference: Sections 7071, 7852.2, 7857, 7858, 8585.5 and 8587.1, Fish and Game Code.

Section 150.03, Title 14, CCR, is amended to read:

Section 150.03 Nearshore Fishery Gear Endorsement Program.

(a) The following regulations govern the qualification, issuance and appeals process of a gear endorsement program for the commercial take of nearshore fish stocks.

(b) Nearshore fish stocks are those listed in Section 150.01, Title 14, CCR.

(c) Qualifications for Gear Endorsement. A transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. A non-transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 non-transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. The ,based on the following qualifying criteria shall be used to determine eligibility for either a transferable or non-transferable trap endorsement:

(1) North Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(2) North-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(3) South-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:

(A) has a valid 2002-2003 finfish trap permit that has not be suspended or revoked, or

(B) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit issued to a person who has a valid 2002-2003 finfish trap permit that has not been suspended or revoked.

(5) A non-transferable trap endorsement issued under this Section shall become null and void upon the death of the permit holder.

(d) Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Permit Gear Endorsements. All applications (FG 1327(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program

received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Permit Gear Endorsement Renewal Requirements. After April 1, 2004, notwithstanding Fish and Game Code Section 8587, Nearshore Fishery Permit gear endorsements for a regional management area will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Permit gear endorsement for that regional management area in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications (FG 1327(104/03), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year.

Applications and permit fees for renewal of Nearshore Fishery Permit gear endorsements received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees for Nearshore Fishery Permit gear endorsements postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit gear endorsement applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit gear endorsement under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each Nearshore Fishery Permit gear endorsement of seventy-five dollars (\$75).

(2) the department shall charge a non-refundable fee of seventy-five dollars (\$75) for each gear endorsement transfer.

(j) Revocation of Nearshore Fishery Permit Gear Endorsement. Any Nearshore Fishery Permit gear endorsement may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

(k) Notwithstanding Fish and Game Code Section 9001.5, a finfish trap permit is not required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR. A general trap permit, issued pursuant to Fish and Game Code Section 9001, is required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR.

NOTE

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 8046, 8589.5, and 8589.7, 9001, and 9001.5, Fish and Game Code.

Section 150.05, Title 14, CCR, is amended to read:

Section 150.05 Nearshore Fishery Bycatch Permit Program.

(a) A Nearshore Fishery Bycatch Permit authorizing the take, possession aboard a vessel, or landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, and in the manner and amount described in subsections (b) and (d) below may be issued to a person who meets the following conditions:

(1) has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked.

(2) The person is not eligible for a 2003-2004 Nearshore Fishery Permit, or the person is eligible for a 2003-2004 Nearshore Fishery Permit based on landings made with gear not authorized under Section 150 or 150.03, Title 14, CCR, and chooses not to convert to the gear authorized pursuant to Section 150, 150.03 or 150.17, Title 14, CCR.

(b) Gear Authorized for Use. Only trawl or entangling nets shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under a Nearshore Fishery Bycatch Permit issued pursuant to this section.

(c) Nearshore Fishery Bycatch Permits are non-transferable and the permit becomes null and void upon the death of the permit holder.

(d) Trip Limits.

(1) Nearshore Fishery Bycatch Permit holders are subject to all state and federal cumulative trip limits pursuant to sections 150.16 and 189, Title 14, CCR. Pursuant to sections 150.06 and 189, Title 14, CCR, no retention of nearshore fish stocks is allowed when the directed nearshore fishery is closed.

(2) Notwithstanding, Section 120.3, Title 14, CCR , and Fish and Game Code Section 8496, a person holding a Nearshore Fishery Bycatch Permit may take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under the following trip limits:

~~(1)~~(A) North Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

~~(2)~~(B) North-Central Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

~~(3)~~(C) South-Central Coast Region. Twenty-five (25) pounds of nearshore fish stocks may be taken per trip.

~~(4)~~(D) South Coast Region. Fifty (50) pounds of nearshore fish stocks may be taken per trip.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Bycatch Permits. All applications (FG 1328(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Bycatch Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Bycatch Permits will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Bycatch Permit in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications (FG 1328(~~104~~/03), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Bycatch Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Bycatch Permit applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the

permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. The department shall charge an annual fee for each Nearshore Fishery Bycatch Permit of two hundred dollars (\$200).

(j) Revocation of Nearshore Fishery Bycatch Permit. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE

Authority cited: Sections 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 8496, 8587 and 8587.1, Fish and Game Code.